

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Adam Foust

DEFENDANTS

General Motors LLC
Jon Diewald(b) County of Residence of First Listed Plaintiff Oakland
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Wayne
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

McTavish Law PLC
41000 Woodward Ave., Suite 350 E., Bloomfield Hills, MI 48304
T: 248-289-7096

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

The Civil Rights Act of 1964, Title VII, 42 U.S.C. Section 2000e-2(a), as amended and 42 U.S.C. Section 1981, as amended.

Brief description of cause:
Employment Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 407,072.75

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
December 14, 2023

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ADAM FOUST,

Case No.:

Plaintiff,

Judge:

v.

DEMAND FOR JURY TRIAL

**GENERAL MOTORS LLC AND
JON DIEWALD,**

Defendants.

McTavish Law PLC
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COMPLAINT

I. INTRODUCTION

1. This case is about the defendants, General Motors LLC, (“GM”), and its former Executive Jon Diewald’s, (Diewald”), discrimination against the Plaintiff, Adam Foust, (“Foust”), and their destruction of Foust’s reputation in their attempt to cover it up.

2. Diwald fired Foust for a violation of GM's corporate vehicle policy, but he gave Kristie Spadine, ("Spadine"), a similarly situated female colleague, only a slap on the wrist for the same violation.

3. In order to justify their disparate treatment of Foust and Spadine, GM and Diwald unjustifiably accused Foust of lying to GM Executive Mike McBride, ("McBride"), during GM's investigation of Foust's and Spadine's violation of GM's corporate vehicle policy.

4. Diwald has spread that lie of Foust within and outside GM.

5. Foust denied then, and he denies now, that he lied to McBride during that investigation.

6. GM replaced Foust with Brittany Palubiski, a woman.

7. In order to prepare his Charge of Discrimination to the Equal Employment Opportunity Commission, ("E.E.O.C."), and this Complaint, Foust requested, under Michigan's Bullard-Plawecki Employee Right to Know Act, a complete, unredacted, copy of his personnel file from Mike Little, ("Little"), GM's in-house counsel for Labor, Employment, and Benefits. Little has ignored Foust's request.

8. The E.E.O.C. has issued Foust a Right to Sue letter.

9. Accordingly, Foust sues GM and Diewald for sex discrimination, Diewald for besmirching Foust's reputation, and GM for refusing to turn over its personnel file of Foust to him, and he requests that a jury award him, *inter alia*, damages, interest, costs, and attorney's fees.

II. THE PARTIES

10. Foust incorporates by reference, and restates herein, paragraphs 1 to 9 above.

11. Foust is an individual. He presently resides at 6252 Cheshire Park Drive, Clarkston, Michigan 48346.

12. GM is a corporation. It presently has more than 155,000 employees. It is incorporated under the laws of the State of Delaware. GM's headquarters is located at 300 Renaissance Center, Detroit, Michigan 48243.

13. Diewald is an individual. He was Foust's supervisor. Diewald presently resides at 163 Allenhurst Avenue, Royal Oak, Michigan 48067.

III. JURISDICTION AND VENUE

14. Foust incorporates by reference, and restates herein, paragraphs 1 to 13 above.

A. Jurisdiction

15. This Court has jurisdiction of this civil action under 28 U.S.C. §1331, as amended, because this action involves a federal question, specifically, GM's and Diewald's malicious and with reckless indifference violation of Foust's rights and remedies under federal law, namely, The Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a), as amended.

16. This Court also has jurisdiction under 28 U.S.C. §1343(4), as amended, because this action seeks to recover damages or secure equitable or other relief under an Act of Congress that provides for the protection of civil rights, namely, The Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a), as amended.

17. This Court has supplemental jurisdiction under 28 U.S.C. § 1367, as amended, over Foust's claims under Michigan law against GM and Diewald because those claims are directly related to, and involve, the exact same facts as his claims against them under The Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a), as amended.

B. Venue

18. This Court has venue of this action under 28 U.S.C. §1390(a) and § 1391(a)(1), (a)(2)(b)(1), or (a)(2), (c)(1) and (2), and (d), as amended, because GM and Diewald all reside within the United States District Court for the Eastern District of Michigan, and a substantial part of the acts or omissions, or both, that give rise to Foust's claims against GM and Diewald occurred within that Court.

IV. THE FACTS

19. Foust incorporates by reference, and restates herein, paragraphs 1 to 18 above.

A. Foust's Employment with GM

20. He was employed with GM for 18 years.

21. He was an excellent employee.

22. He was an excellent leader.

23. When Diewald fired Foust, he was the Senior Human Resources Manager for Global Design at GM.

24. Diewald was Foust's supervisor while Foust held that position.

25. As the Senior Human Resources Manager for Global Design at GM, Foust received an annual salary of \$188,543, plus benefits, plus a company vehicle, plus a bonus of up to 24% of his annual salary.

B. GM's Unlawful Termination of Foust's Employment

26. Foust asked Spadine, a similarly situated female colleague, if he could use her GM company vehicle over a weekend to drive from Michigan to Indiana to visit his wife and children.

27. Foust's wife had driven his GM company vehicle from Michigan to Indiana earlier in the week.

28. Foust did not wish to drive his personal leased GM vehicle from Michigan to Indiana over the weekend because that vehicle was close to the limit on its mileage under the lease.

29. Spadine allowed Foust to use her GM company vehicle.

30. A week after Foust had used Spadine's GM company vehicle, he received, out-of-the blue, a message on Microsoft Teams from GM's Investigative Team to meet with two female investigators.

31. That message did not say what the meeting is going to be about.

32. When Foust arrived at the meeting, he was interrogated for over an hour and he was accused of violating GM's company vehicle policy.

33. At the meeting, Foust was forthcoming, including, apologizing for violating GM's company vehicle policy.

34. Since GM could not fire Foust for his violation of its corporate vehicle policy, GM used a text message from Foust to Mike McBride, a GM executive Foust supported as the Senior Human Resources Manager for Global Design at GM, to infer that Foust had lied to McBride.

35. GM's inference is baseless and false.

36. Foust denied then, and he denies now, that he lied to McBride.

37. Days after GM interrogated Foust, Diewald, without any warning to Foust, and without giving him the opportunity to explain his text message, fired Foust.

38. Diewald only gave Spadine a slap on the wrist. He told her not to violate GM's corporate vehicle policy again.

39. After GM fired Foust, it replaced him with a woman, Brittany Palubiski.

C. Foust's Charge with the E.E.O.C.

40. On 31 May 2023, Foust timely filed his Charge of Sex Discrimination with the E.E.O.C.

41. On 6 June 2023, Foust's Charge of Sex Discrimination was delivered by U.S. Registered Mail, Return Receipt Requested, to the E.E.O.C.

42. The E.E.O.C. assigned number 471-2023-04290 to Foust's Charge of Sex Discrimination.

43. On 2 October 2023, the E.E.O.C. issued a right to sue letter to Foust regarding his Charge of Sex Discrimination.

V. CLAIMS

A. GM's Discrimination Against Foust Contrary to the Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e-2(a), as amended,

44. Foust incorporates by reference, and restates herein, paragraphs 1 to 43 above.

45. Foust is a member of a protected class. He is man.

46. Foust is qualified for the job of Senior Human Resources Manager for Global Design at GM.

47. Foust suffered an adverse employment action at GM. Diewald fired him.

48. Spadine, a female colleague of Foust, and a similarly situated employee to Foust, who violated the same GM company vehicle policy as Foust, was given a slap on the wrist by Diewald and he told her never to do it again, whereas Diewald fired Foust for the same violation.

49. GM's firing of Foust for lying is a pretext so GM could replace him with a woman, namely, Brittany Palubiski.

B. GM's Discrimination Against Foust Contrary to the Elliott-Larsen Civil Rights Act, MCL 37.2101 et. seq., as amended

50. Foust incorporates by reference, and restates herein, paragraphs 1 to 49 above.

51. Foust is a member of a protected class. He is man.

52. Foust is qualified for the job of Senior Human Resources Manager for Global Design at GM.

53. Foust suffered an adverse employment action at GM. Diewald fired him.

54. Spadine, a female colleague of Foust, and a similarly situated employee to Foust, who violated the same GM company vehicle policy as Foust, was given a slap on the wrist by Diewald and he told her never to do it again, whereas Diewald fired Foust for the same violation.

55. GM's firing of Foust for lying is a pretext so GM could replace him with a woman, namely, Brittany Palubiski.

C. Diewald's Injurious Falsehoods Against Foust

56. Foust incorporates by reference, and restates herein, paragraphs 1 to 55 above.

57. Diewald's accusations, within and outside GM, that Foust lied to McBride are false.

58. Diewald knew those accusations were false, or recklessly disregarded whether they were false, when he disseminated those accusations within and outside GM.

59. Diewald published his above false accusations of Foust with actual malice. They are spiteful lies.

60. Diwald knew or should have known that his accusations were false before he published them.

61. Diwald knew or should have known that his above intentional and malicious false publications regarding Foust would likely result in an action being brought against him by Foust.

62. Foust has suffered special damages, or pecuniary losses, or both, because of the above lies of Diwald, including, but not limited to, Foust's attorney's fees and costs to bring, and maintain this action, exemplary damages, loss of back pay, future pay, and other economic damages.

D. GM's Violation of the Bullard-Plawecki Employee Right to Know Act, 423.501, et. seq., as amended

63. Foust incorporates by reference, and restates herein, paragraphs 1 to 62 above.

64. Foust has requested his personnel file from GM pursuant to the above Act.

65. GM has not produced its personnel file for Foust to him.

66. Foust has been prejudiced by GM's failure to do so.

67. GM's personnel file for Foust contains the facts regarding GM's firing of Foust.

68. If Foust had those facts, he could address them in this Complaint, which would streamline this litigation and save time and expense.

VI. RELIEF REQUESTED

69. Foust incorporates by reference, and restates herein, paragraphs 1 to 68 above.

70. Foust seeks the following, *inter alia*, relief from GM, and Diewald:

- A. pre-judgment interest;
- B. post-judgment interest;
- C. attorney's fees and costs;
- D. back pay;
- E. front pay;
- F. compensatory damages;
- G. exemplary damages;
- H. punitive damages; and,
- I. such further and other relief that Foust may request, and this Honorable Court may deem just.

Dated: 22 December 2023

/s/ Christopher A. Chekan

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JURY DEMAND

Foust requests this action be tried before a jury pursuant to Article VII of the Articles in Addition to, and Amendment of, the Constitution of the United States of America, and Fed. R. Civ. P. 38, as amended.

Dated: 22 December 2023

/s/ Christopher A. Chekan

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